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Susanna L. Southworth, PhD (*pro hac vice*)
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2522 N. Proctor St., Ste. 85
Tacoma, WA 98402
(253) 392-4409
Email: susanna@restorethechild.com

Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
EUGENE DIVISION

“LILY,” “SARAH,” “SLOANE,”
“CARA,” “VIOLET,” “MARIA,” “JANE
DOE” for “SAVANNAH”, a protected
person, “HENLEY,” “PIA,” “MYA,”
“ANGELA,” “APRIL,” “MARTA
SMITH,” guardian ad litem for “JULIE,”
a minor, “JANE,” “AMY,” “JENNY,”
“ERIKA,” “MARY MOE,” as next
friend for “RAVEN,” and “ANNA,”

Plaintiffs,

v.

DONALD VINCENT KELLER,

Defendant.

Case No. 6:25-CV-00078-MTK

**PLAINTIFFS’ REPLY TO DEFENDANT’S
RESPONSE TO PLAINTIFFS’ MOTION TO
PROCEED UNDER PSEUDONYMS**

PLAINTIFFS’ REPLY TO DEFENDANT’S RESPONSE TO
PLAINTIFFS’ MOTION TO PROCEED UNDER
PSEUDONYMS - PAGE 1

REPLY

Plaintiffs submit this Reply to Defendant's Response to Plaintiffs' Motion to Proceed Under Pseudonyms in order to make clear the record by answering the inaccuracies in the Defendant's Response.

There was Actual Conference Between the Parties Prior to Plaintiffs' Motion Being Filed

Plaintiffs and defense counsel conferred extensively via both on the phone and by emails prior to plaintiffs filing their motion, and plaintiffs hereby certify that this actually took place. The email "chain" appears below herein. The email "chain" also confirms phone conference between counsel.

Plaintiffs first provided defense counsel with a "DRAFT" version of plaintiffs' proposed motion. This was modified before filing to reflect the differences between the parties' positions.

Plaintiffs' motion sets out the parties' differences, which explanation comes from the conference between plaintiffs and defendant that took place *prior to* the motion being filed.

Plaintiffs' motion includes, on page 1, that "Counsel for Defendant has filed an answer." The *contrary* assertion erroneously made by defense counsel in his response comes from the "DRAFT" version of the motion that was first circulated by Plaintiffs, but was then *superseded* by plaintiffs' filing of the instant motion, after conference between counsel.

The email "chain" evidences actual conference between counsel prior to filing the motion to allow the use of pseudonyms for plaintiffs added by the first amended complaint

Note: from Plaintiffs' 2/12/25 email to defense counsel (seen below):

"Plaintiffs intend to file this motion. We discussed this earlier today on the phone."

PLAINTIFFS' REPLY TO DEFENDANT'S RESPONSE TO
PLAINTIFFS' MOTION TO PROCEED UNDER
PSEUDONYMS - PAGE 2

J. William Savage, P.C.
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(503) 222-0200

**February 12, 2025
(emphasis added)**

From: J William Savage jwsavage@earthlink.net
Subject: Pls et al v Keller / USDC Case No. 6:25-cv-00078-MTK
Date: February 12, 2025 at 3:05 PM
To: John Kaempf john@kaempflawfirm.com
Cc: J. William Savage jwsavage@earthlink.net, JoLynne Zimmerman
jwslegalassist@earthlink.net

John –

Plaintiffs intend to file this motion. We discussed this earlier today on the phone:

Motion to Proceed under Pseudonyms.

021225.docx

Please advise if you oppose this motion, have no position, do not object, or otherwise.

If you wish to modify, please do so in a redlined version.

I continue to look forward to working with you.

Thank you.

Bill Savage

PLEASE NOTE OUR NEW ADDRESS

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PLAINTIFFS' REPLY TO DEFENDANT'S RESPONSE TO
PLAINTIFFS' MOTION TO PROCEED UNDER
PSEUDONYMS - PAGE 3

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us at 503.307.6602 and return it to us at jwsavage@earthlink.net

February 19, 2025
(emphasis added)

From: J William Savage <jwsavage@earthlink.net>

Sent: Wednesday, February 19, 2025 9:21 AM

To: John Kaempf <john@kaempflawfirm.com>

Cc: J. William Savage <jwsavage@earthlink.net>; JoLynne Zimmerman
<jwslegalassist@earthlink.net>

Subject: Pls et al v Keller / USDC Case No. 6:25-cv-00078-MTK

John -

I provided this email to you on 2/21/25:

John -

Plaintiffs intend to file this motion. We discussed this earlier today on the phone:

Please advise if you oppose this motion, have no position, do not object, or otherwise.

If you wish to modify, please do so in a redlined version.

I continue to look forward to working with you.

Thank you.

Bill Savage

I did not receive any response to this email.

PLAINTIFFS' REPLY TO DEFENDANT'S RESPONSE TO
PLAINTIFFS' MOTION TO PROCEED UNDER
PSEUDONYMS - PAGE 4

J. William Savage, P.C.
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However, I did receive your answer yesterday which includes, inter alia, in ¶ 4 under Affirmative Defenses, the following:

"4. Plaintiffs proceeding anonymously violates Defendant's Fifth Amendment Right to Due Process. "

Should I now assume that defendant opposes the proposed Motion to Proceed Under Pseudonyms?

Please advise.

Please also consider this email as a Second Attempt to Confer on the proposed motion.

Thank you.

Bill Savage

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February 19, 2025
(emphasis added)

PLAINTIFFS' REPLY TO DEFENDANT'S RESPONSE TO
PLAINTIFFS' MOTION TO PROCEED UNDER
PSEUDONYMS - PAGE 5

J. William Savage, P.C.
501 Fourth Street, #490
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On Feb 19, 2025, at 9:58 AM, John Kaempf <john@kaempflawfirm.com> wrote:

Bill:

I will agree to all Plaintiffs using a pseudonym in the case caption and in the body of pleadings. My client I have no intent to gratuitously "out" someone who claims to be a victim of child pornography.

But as I read your motion, you request that my client, the Defendant, be forever prohibited from knowing the real name of any of the people suing him.

As confirmed in the Answer and Affirmative Defenses I timely filed yesterday, the defenses include Fifth Amendment and Eighth Amendment violations based on being anonymously sued for \$150,000 in liquidated damages per plaintiff and statutory attorney fees.

I am concerned that if I agree to what you propose, it would irreparably prejudice my client at least, in part, because it could constitute a waiver of his Constitutional defenses.

I'm not being flippant or critical of you, but based on what has occurred so far what you propose going forward, how could my client or I know any of these people are real?

So, again, I will agree to the Plaintiffs using pseudonyms in the case caption and in the body of pleadings.

But I cannot agree to my client never being told the real name of any Plaintiff. He cannot fully and fairly defend himself without that very important information.

Thank you.

John Kaempf
Kaempf Law Firm, PC
2021 S.W. Main St.
Suite 64
Portland, OR 97205
(503) 224-5006
[Bio](#) | [Website](#)

**February 19, 2025
(emphasis added)**

PLAINTIFFS' REPLY TO DEFENDANT'S RESPONSE TO
PLAINTIFFS' MOTION TO PROCEED UNDER
PSEUDONYMS - PAGE 6

J. William Savage, P.C.
501 Fourth Street, #490
Lake Oswego, OR 97034
(503) 222-0200

From: J William Savage <jwsavage@earthlink.net>
Sent: Wednesday, February 19, 2025 10:10 AM
To: John Kaempf <john@kaempflawfirm.com>
Cc: JoLynne Zimmerman <jwslegalassist@earthlink.net>
Subject: Re: Pls et al v Keller - pseudonym motion conferring

John -

Just to be clear.

The ONLY issue right now is using pseudonyms in the case caption and in the pleadings.

Any other issues can be taken up later, if need be.

So .. can I represent to the court "[defendant] will agree to the Plaintiffs using pseudonyms in the case caption and in the body of pleadings." ??.

Let me know.

Thank you.

Bill

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PLAINTIFFS' REPLY TO DEFENDANT'S RESPONSE TO
PLAINTIFFS' MOTION TO PROCEED UNDER
PSEUDONYMS - PAGE 7

J. William Savage, P.C.
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(503) 222-0200

February 19, 2025
(emphasis added)

On Feb 19, 2025, at 10:18 AM, John Kaempf <john@kaempflawfirm.com> wrote:

Okay, as long as you also add a clause stating "Defendant and his counsel reserve the right to request and learn the real name of each Plaintiff, and to, among other things, take their depositions."

And a clause stating "without waiving any defenses, or the right to request that Plaintiffs use their real names in court proceedings, such as motion hearings and depositions, and any trial, Defendant agrees to allow Plaintiffs to use pseudonyms in the case caption and body of publicly-filed pleadings and other papers."

John Kaempf
Kaempf Law Firm, PC
2021 S.W. Main St.
Suite 64
Portland, OR 97205
(503) 224-5006
[Bio](#) | [Website](#)

February 19, 2025:
(emphasis added)

From: J William Savage <jwsavage@earthlink.net>
Subject: Re: Pls et al v Keller - pseudonym motion conferring
Date: February 19, 2025 at 10:44:55 AM PST
To: John Kaempf <john@kaempflawfirm.com>
Cc: JoLynne Zimmerman <jwslegalassist@earthlink.net>, "J. William Savage" <jwsavage@earthlink.net>

John -

I will confer further w/ my associates and get back to you.

Thank you.

PLAINTIFFS' REPLY TO DEFENDANT'S RESPONSE TO
PLAINTIFFS' MOTION TO PROCEED UNDER
PSEUDONYMS - PAGE 8

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Bill

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February 23, 2025
(emphasis added)

From: J William Savage <jwsavage@earthlink.net>
Date: Sunday, February 23, 2025 at 8:36 PM
To: John Kaempf <john@kaempflawfirm.com>
Cc: J. William Savage <jwsavage@earthlink.net>, JoLynne Zimmerman <jwslegalassist@earthlink.net>
Subject: Keller / NEW Pls proposed motion to proceed under pseudonyms

John -

In a further effort to confer on Pls Motion to Proceed Under Pseudonyms, I offer the following:

PLAINTIFFS' REPLY TO DEFENDANT'S RESPONSE TO
PLAINTIFFS' MOTION TO PROCEED UNDER
PSEUDONYMS - PAGE 9

J. William Savage, P.C.
501 Fourth Street, #490
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Please let me know if I may submit this as I propose, or not.

Also, please cc my paralegal, JoLynne Zimmerman on all emails going forward.

Thank you.

Bill Savage

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[attachment appears below]

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Attorney for Plaintiffs

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON

“LILY,” “SARAH,” “SLOANE,” “CARA,”
“VIOLET,” “MARIA,” “JANE DOE” for
“SAVANNAH”, a protected person,
“HENLEY,” “PIA,” “MYA,” “ANGELA,”
“APRIL,” “MARTA SMITH,” guardian ad
litem for “JULIE,” a minor, “JANE,” “AMY,”
“JENNY,” “ERIKA,” “MARY MOE,” as next
friend for “RAVEN,” and “ANNA,”

Plaintiffs,

v.

DONALD VINCENT KELLER,

Defendant.

Case No: 6:25-cv-00078-MTK

PLAINTIFFS’ NOTICE OF MOTION AND
MOTION TO PROCEED UNDER
PSEUDONYMS

Before the Honorable Mustafa T. Kasubhai
United States District Court Judge

Plaintiffs move the Court for an Order granting Plaintiffs’ Motion to Proceed Under Pseudonyms.

This motion is based on the following Memorandum of Points and Authorities, the complete files and records in this action, the arguments of counsel, and any other matters that may properly come before the Court for its consideration.

Counsel for Defendant has filed an answer.

PLAINTIFFS’ NOTICE OF MOTION AND MOTION TO
PROCEED UNDER PSEUDONYMS
PLAINTIFFS’ REPLY TO DEFENDANT’S RESPONSE TO
PLAINTIFFS’ MOTION TO PROCEED UNDER
PSEUDONYMS - PAGE 11

J. WILLIAM SAVAGE, J
501 4TH STREET, STE
LAKE OSWEGO, OREGON 97
TELEPHONE: (503) 222-0
FACSIMILE: (503) 248-0

February 24, 2025:
(emphasis added)

From: John Kaempf <john@kaempflawfirm.com>
Subject: RE: Keller / NEW Pls proposed motion to proceed under pseudonyms
Date: February 24, 2025 at 11:40:21 AM PST
To: J William Savage <jwsavage@earthlink.net>
Cc: JoLynne Zimmerman <jwslegalassist@earthlink.net>

Bill: because what you sent me today expressly rejects the additional provisions I request. I cannot agree to this.

But you can file it, and then I will file an opposition containing my objections. Again, I do not object to plaintiffs using pseudonyms in the case caption or body of pleadings.

But because of my Fifth Amendment Due Process and Eighth Amendment Excessive Fines constitutional challenges, I cannot agree that my client never gets to know Plaintiff's' real names, or take their depositions.

I am big on stipulations during discovery, turning over discoverable documents, and moving forward quickly. We have both been doing this for a long time.

But from my perspective, this is a novel statute (which Apple Corp. It is also dealing with), and I need to make sure I preserve my defenses, especially given the possible liquidated damages and attorney fees. Thanks.

John Kaempf Kaempf Law Firm, PC
2021 S.W. Main St.
Suite 64
Portland, OR 97205
(503) 224-5006
[Bio](#) | [Website](#)



February 24, 2025
(emphasis added)

PLAINTIFFS' REPLY TO DEFENDANT'S RESPONSE TO
PLAINTIFFS' MOTION TO PROCEED UNDER
PSEUDONYMS - PAGE 12

J. William Savage, P.C.
501 Fourth Street, #490
Lake Oswego, OR 97034
(503) 222-0200

From: J William Savage jwsavage@earthlink.net
Subject: Re: Keller / NEW Pls proposed motion to proceed under pseudonyms
Date: February 24, 2025 at 11:55 AM
To: John Kaempf john@kaempflawfirm.com
Cc: JoLynne Zimmerman jwslegalassist@earthlink.net, J. William Savage
jwsavage@earthlink.net

John –

Thank you.
Your position is so noted.

Plaintiffs will file the motion I sent you yesterday.

Objections, if any, will follow.

Thank you again for clarifying.

Bill Savage

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PLAINTIFFS' REPLY TO DEFENDANT'S RESPONSE TO
PLAINTIFFS' MOTION TO PROCEED UNDER
PSEUDONYMS - PAGE 13

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**Exclusion or Denial of Any Motion for Lack of a “Conference Statement” in the First
Paragraph of a Motion is Discretionary With the Court**

The exclusion or denial of any motion for the lack of a “conference statement in the first paragraph of any motion filed is discretionary with the court.

LR 7-1 provides:

LR 7-1 Motions Practice - Generally

(a) Certification Requirements

1. Except for motions for temporary restraining orders, the first paragraph of every motion must certify that:

A. In compliance with this Rule, the parties made a good faith effort through personal or telephone conferences to resolve the dispute and have been unable to do so; or

B. The opposing party willfully refused to confer; or

C. The moving party or opposing party is a prisoner not represented by counsel.

2. When conferring about a dispositive motion, the parties must discuss each claim, defense, or issue that is the subject of the proposed motion.

3. The Court **may deny** any motion that fails to meet this certification requirement.

(emphasis added.)

In this case, counsel for the Plaintiffs and the Defendant *did confer in a meaningful fashion* prior to Plaintiffs filing their pseudonym motion. To suggest otherwise belies the facts of what occurred.

The conference requirement is important so as to avoid wasting the court's time on irrelevant, meaningless or superfluous matters. Plaintiffs' pseudonym motion is straightforward and direct – and it followed meaningful conference between counsel on the issue of the use of pseudonyms for the plaintiffs added to the case in the first amended complaint. The motion itself demonstrates this. Nevertheless, counsel were unable to reach agreement, necessitating the instant motion.

Plaintiffs acknowledge that the statement “the parties made a good faith effort through personal or telephone conferences to resolve the dispute and have been unable to do so” was inadvertently omitted from the first paragraph in plaintiffs' motion. Plaintiffs apologize to the court for this omission. Plaintiffs urge the court not to deny Plaintiffs' motion on this technical point, but to exercise the court's discretion to consider Plaintiffs' pseudonym motion on its merits.

Plaintiffs have Provided the Court with Good Reason for Use of Pseudonyms in the Public Record; Defendant Misstates the Standard.

This court, in its *sua sponte* order of January 17, 2025, ordered that the original Plaintiffs need not publicly identify themselves given the nature of the allegations in this case. That is the only issue that is before the court at this time--whether the additional Plaintiffs added in the First Amended Complaint need publicly identify themselves.

Defendant has stated in his response that he does not object to Plaintiffs using pseudonyms in the caption herein. (Dkt. #18, p. 4, ¶1.) However, Defendant goes on in his response to “insist” that plaintiffs use their “real names” in discovery and trial. This is a question for another day.

While Defendant apparently agrees to the use of pseudonyms in the caption, it must be remembered that there are also other instances in the course of litigation where a plaintiff's legal name might ordinarily be placed in the public record. Plaintiffs' instant motion seeks to allow them to use pseudonyms in any public filing and to redact their legal names from any document which might be publicly filed.

Additionally, Defendant's response raises the concern, and Plaintiffs therefore request, that, should Defendant learn their legal names, that he be precluded from placing their legal names in the public record.

Defendant seems to conflate or confuse this case filed under 18 U.S.C. 2255 concerning possession of images of child pornography, with one concerning allegations of hands-on sexual assault. He refers to "standard practice in common-law child sex abuse cases" (Dkt. 18, p.4). This case is not a "standard" child sex abuse case, if there is such a thing. As declared by the Sixth Circuit in *Doe v. Boland*, 698 F.3d 877, 882 (6th Cir. 2012), "§2255 is no ordinary cause of action." Plaintiffs need not prove damages in the ordinary way as they have elected statutory liquidated damages. *Id. See also, Amy, et al v. Curtis*, NDCA No. 21-cv-02184 (2021) cited by Defendant. Therefore, the extensive discovery and investigation which might be occasioned in the typical case, is not on the table here.

The instant case is one where the crimes committed were perpetrated on the internet. Defendant pleaded guilty to the crimes. The internet is where the contraband images of the Plaintiffs reside and where the consumers of the images go to find both the images, and the Plaintiffs, if they can. The Declaration of James R. Marsh submitted in support of the Plaintiffs' Motion, attests to his twenty years of experience in representing victims of child pornography and online exploitation crimes. (Dkt. # 11-1, p. 2, ¶ 2.) His clients include a number of the

PLAINTIFFS' REPLY TO DEFENDANT'S RESPONSE TO
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Plaintiffs herein. He further attests to awareness of animosity expressed by many individuals towards victims of child pornography crimes. He quotes a post online expressing a desire to “murder” a lawyer who represents such victims. (*Id.* at ¶ 3.)

Attorney Susanna Southworth, who represents three of the Plaintiffs herein, also attests to information she has received indicating physical danger for victims of child sex abuse material. She advises of her understanding of online postings concerning the current whereabouts and identities of child pornography victims. (Dkt. #11-2, ¶6.) There is no benign reason for anyone to be posting information online concerning the location and legal identity of a victim of child pornography crimes.

Allowing the revelation in the public record of the identities of child pornography victims simply feeds the prurient interest of the offender community. Defendant seems to believe that it is necessary for Plaintiffs to show that they suffer a clear and present danger from the Defendant, himself. (Dkt. #18, p. 14.) This is simply not the case; Defendant submits no authority for this proposition. Rather, the greater danger to the victims is from the offender community, which has a rampant appetite for information concerning sexually abused children. The sheer volume of child pornography crimes passing through the federal courts is evidence enough of this problem.

The Ninth Circuit in *Does I Thru XXIII v. Advanced Textile Corp.*, 214 FR.3d 1058 (9th Cir. 2000), made clear that the danger at issue may be from a third party. In *Advanced Textile*, *supra*, the plaintiffs brought claims against their employer under the Fair Labor Standards Act. They sought to proceed anonymously due to fear of reprisal from the Chinese government and retaliation from their employer. The District Court denied their request and the Ninth Circuit reversed, finding that the District Court abused its discretion. In particular, the appellate Court found that the District Court erred in refusing to consider perceived threats from third parties,

PLAINTIFFS’ REPLY TO DEFENDANT’S RESPONSE TO
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other than the defendant. Further, the Ninth Circuit noted that what might have been ordinary threats of retaliation in another case through firing or blacklisting by the employer, in that particular case were extraordinary threats to the plaintiffs because they were guest workers and might suffer deportation. Thus, in considering the need for a plaintiff to proceed anonymously, it is important to consider the context within which the plaintiffs bring their claims.

Here the Plaintiffs suffer the scourge of being victims of child pornography crimes. Their most intimate and humiliating moments are portrayed on the internet for those who wish to seek out such contraband. Should they be subjected to identifying themselves and thereby declaring in the public record that this has been their lot in life? Should they be subjected to even more humiliation and the prospect of being stalked by offenders? Under the case law of this Circuit the answer should be no. Plaintiffs' motion should be granted.

CONCLUSION

Plaintiffs do not believe that allowing plaintiffs' simple, direct and straightforward motion will unfairly prejudice defendant in any way. If defendant wishes to raise other issues, he is free to do so at the appropriate time.

Dated March 21, 2025.

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PLAINTIFFS' REPLY TO DEFENDANT'S RESPONSE TO
PLAINTIFFS' MOTION TO PROCEED UNDER
PSEUDONYMS - PAGE 18

J. William Savage, P.C.
501 Fourth Street, #490
Lake Oswego, OR 97034
(503) 222-0200

Declaration Affirmation

I, J. William Savage, hereby declare the foregoing facts set forth are true and correct to the best of my personal knowledge under penalty of perjury of the laws of the State of Oregon and under 28 U.S.C. § 1746

Respectfully submitted,

J. WILLIAM SAVAGE, P.C.

By: s/J. William Savage

J. William Savage, OSB No. 773347

J. William Savage, P.C.

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Susanna L. Southworth, PhD (*pro hac vice*)

WSBA No. 35687

Restore the Child, PLLC

2522 N. Proctor St., Ste. 85

Tacoma, WA 98402

(253) 392-4409

Email: susanna@restorethechild.com

Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing on:

John Kaempf, Esq.
Kaempf Law Firm PC
2021 SW Main Street, Suite 64
Portland, OR 97205
Phone: (503) 224-5006
Email: john@kaempflawfirm.com

by the following indicated method or methods:

___ by mailing full, true, and correct copies thereof in a sealed, first-class postage-prepaid envelopes, addressed to the parties as shown above, the last-known office addresses of the parties, and deposited in the post office in Portland, Oregon on the date set forth below.

XX by electronic mail to the last-known e-mail address shown above on the date set forth below.

___ by causing full, true, and correct copies thereof to be hand-delivered to the parties at the parties' last-known office addresses listed above on the date set forth below.

___ by sending full, true and correct copies thereof via overnight courier in sealed, prepaid envelopes, addresses to the parties as shown above, the parties' last-known office addresses, on the date set forth below.

___ by faxing full, true and correct copies thereof to the parties at the fax numbers shown above, which are the last-known fax numbers for the parties' offices, on the date set forth below. The receiving fax machines were operating at the time of service and the transmissions were properly completed.

___ by personal delivery of a true copy of the foregoing to said attorney.

X by Pacer e-File & Serve.

DATED this 21st day of March, 2025.

J. WILLIAM SAVAGE, P.C.

s/ J. William Savage
J. William Savage, OSB 773347
Of Attorneys for Plaintiff